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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/083,844

02/25/2002

Mark W. Kroll

7776

7590

07/30/2004

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EXAMINER

MAI, HUY KIM

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,844

Applicant(s)

KROLL ET AL.

Examiner

Huy K. Mai

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment including a certificate of mailing, faxed to the office on March 17, 2004 is considered timely file to the office action for the following reasons:

(i). In response to the examiner's direct call concern about the amendment, the applicant indicated that the amendment has filed on Oct. 28, 2003 and then faxed the amendment to the office on the same day.

(ii). The amendment includes both an establish date at the end of the response dated 27 Oct. 2003 and a certificate of mailing dated 28 Oct. 2003.

These reasons show that the applicant timely filed a response to the previous action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Baratelli (3,155,982).

Baratelli, in column 1, lines 9-11, 63-66, discloses implicitly the sunglasses comprising a pair of bows, which may be any suitable plastic material, translucent or transparent dependent upon the use, wherein the bows are transmissive to a predetermined wavelength of light.

In arguments the applicant states that "Nowhere does the Baratelli reference disclose using ultraviolet blocking lenses. The Baratelli reference is for safety glasses and not for sunglasses."

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This is not true. Baratelli discloses in column 1, lines 9-11 that his invention adapted particularly for use as sunglasses. The lenses in the Baratelli's sunglasses inherently include a UV blocking function.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank (4,162,542).

Frank discloses in Figs 1-9, columns 1-4, eye protectors providing various forms of eye shading and protection as used as a form of goggles for skiers or even tinted same what to be used as a form of sunglasses while allowing tanning through the nose bridge and the head strap wherein the nose bridge and the head straps are clear plastic members having a rectangular cross-section for allowing through the nose bridge and the head strap so that a white line is not left on the nose and the temples during suntanning. Although Frank's eye protector does not include a right and left frame element, each secured to a correspond right and left bow, he addresses in column 1, lines 29-39, the problem of conventional sunglasses create untanned lines or streaks on the wearer's face because of their (frame and temples) sizes and substantial opaque region. Therefore, it would have been obvious at the time the invention was made to a person having skilled in this art to modify the eye protector by forming sunglasses including frame, bridge and

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bows made of a clear plastic material to solve the problem of untanned lines or streaks on the wearer's face as disclosed by Frank.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.



Huy Mai
Primary Examiner
Art Unit 2873

HKM/
July 23, 2004